**Outcome Document of the Expert Seminar**

**on the Legislation Development on the Rights of Indigenous Small-numbered Peoples**

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Organizers: Regional Association of Indigenous Small-Numbered Peoples of the North of Krasnoyarsk Territory, Interregional public organization the Union of Indigenous Peoples “SOYUZ”, Siberian Federal University

 The participants of the expert seminar, having analyzed current federal and subnational legislation, practices and mechanisms for the participation of representative bodies and organizations of Indigenous Peoples in lawmaking, as well as the efforts of the State, the expert and academic community, independent human rights institutions, agreed with the following conclusions and recommendations addressed to the UN Expert Mechanism on Rights of Indigenous Peoples to inform its study “Laws, Legislation, Policies, Constitutions, Judicial Decisions and Other Mechanisms in which States have Taken Measures to Achieve the Ends of the UN Declaration on the Rights of Indigenous Peoples, in Accordance with Article 38 of the Declaration”:

**Development of federal legislation on the rights and state support measures for Indigenous Peoples of the Russian Federation**

1. Indigenous Small-numbered Peoples in Russia maintain a special legal status due to their unique lifestyle based on unbreakable connection to their traditional lands, their dispersion and remoteness of their residence areas, as well as critically small number of their population. Due to this specificity, the constitutional provision of the rights of Indigenous Peoples does not affect the status of other peoples of the Russian Federation.
2. Article 69 of the Russian Constitution, as adopted in 1993, guarantees the rights of Indigenous Small-numbered Peoples “through universally recognized principles and norms of international law, as well as with international treaties to which the Russian Federation is a party.” The 2020 constitutional reform reinforced this article by adding a provision on protection of cultural identity of all peoples and guarantees of preserving their ethnic, cultural and language diversity. Thus, the rights of Indigenous Small-numbered Peoples were reconfirmed by a popular vote, and involvement of Indigenous Small-numbered Peoples in discussions of the amended Constitution solidified their status of state-constituting peoples alongside with other Peoples of Russia.
3. For Indigenous Small-Numbered Peoples of Russia, the Constitution is both the source of their collective rights, and an extremely important instrument for legal remedy. The Constitutional Court has made numerous decisions[[1]](#footnote-1) based on constitutional provisions in respect of suits filed by Indigenous Small-numbered Peoples that result in both restoration of specific rights and legislation reforms.
4. Russian legislation that guarantees the rights of Indigenous Small-numbered Peoples has been developing over a lengthy period and is represented by a relatively high number of laws and regulations concerning social, economic and cultural development of Indigenous Small-numbered Peoples, as well as preservation of their traditional living habitats, ways of life, economic activities, occupations, etc.
5. As an extension of constitutional recognition of the rights of Indigenous Small-numbered Peoples in Russia, there are three dedicated federal laws covering respective issues[[2]](#footnote-2). A set of sectoral federal laws stipulates the rights to priority use of land, forests, water reservoirs, natural reserves, and wildlife.
6. At the same time, Indigenous Small-numbered Peoples state that access to natural resources is one area where mechanisms of exercising their rights are in need of improvement. In particular, federal legislation envisages the rights to traditional hunting and fishing, but their exercise on the level of regulations and law-enforcement requires substantial revisions.
7. Currently, the State Duma of the Russian Federation is considering a bill aimed at streamlining the procedure of exercising the rights to traditional fishing (so that limits would be assigned automatically without the need to submit an application) initiated by the Association of the Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation (RAIPON). Amendments to Federal Law “On the General Principles of Organization of Communities of Indigenous Small-numbered Peoples of the North, Siberia and the Far East” were adopted in 2022 in the wake of consultations with RAIPON, i.a. with the aim of specifying the rights of communities to engage in entrepreneurial activities, accounting of enrolment, putting in order and limiting the percentage of persons not belonging to Indigenous Peoples in the community membership.
8. Moreover, on the initiative of RAIPON, in 2020 the federal legislature introduced registration of persons belonging to Indigenous Small-numbered Peoples of Russia. Establishment of that register aims to streamline the procedures of exercising the rights of Indigenous Small-numbered Peoples and make sure the state system of support measures for Indigenous Small-numbered Peoples is targeted and efficient. Currently, legislative initiatives are being developed for the use of the register by executive authorities, primarily in hunting and fishing, in order to further debureaucratize the access of Indigenous Peoples to aquatic biological resources and wildlife. Applying for inclusion to the register is voluntary, and non-inclusion shall not entail revocation of legally guaranteed rights.

**Recent development of subnational legislation on the rights and state support measures for Indigenous Peoples of the Russian Federation**

1. With regard to the federal structure of the state, and in accordance with Article 72 of the Russian Constitution, protection of traditional living habitats and ways of life of Indigenous Small-numbered Peoples is the subject of joint responsibility of the federal government and the constituent entities of the Russian Federation. Therefore, legislation on guarantees of the rights of Indigenous Small-Numbered Peoples has a two-level structure and consists of laws and other regulatory legal acts formed at two levels: at the federal level and at the level of constituent entities of the Russian Federation. Thus, federal legislation represents a certain standard in the field of the rights of Indigenous Small-Numbered Peoples, and regional legislation makes it possible to specify and supplement issues that are not regulated at the federal level. In this regard, the development of regional legislation taking into account the specifics of livelihoods, types of traditional economic activities of Indigenous Peoples, and climatic conditions is of great importance.
2. Examples of advanced practices of regional law-making and enforcement include establishment of territories of traditional use of natural resources in the Khanty-Mansi Autonomous Okrug (Yugra), Republic of Sakha (Yakutia) and Republic of Khakassia. The law on ethnological examination has been in force in the Republic of Sakha (Yakutia) for 13 years; it was amended in 2022 to provide for making an assessment of social and cultural impacts at any stage of implementation of industrial projects in the areas of residence and traditional economic activities of Indigenous Small-numbered Peoples. Even though Indigenous Small-numbered Peoples are interested in having a similar law on the federal level, no consensual bill has been drafted yet.
3. In December 2022, on the initiative of the Association of Indigenous Small-numbered Peoples of the Chukotka Autonomous Okrug, a law on responsible use of subsurface resources in the respective okrug was adopted. The law envisages signing quadrilateral agreements on cooperation in social and economic development among a respective subsurface user, the regional administration, a local-self-governing body, and the regional Association of Indigenous Small-numbered Peoples.
4. In the Yamalo-Nenets Autonomous Okrug, a measure of support for nomadic reindeer herders has been normatively established in the form of providing “Chum subsidy” - a payment (equivalent to the average two-year income in the country) to nomadic families in order to purchase and set up traditional nomadic dwelling (chum). In the Krasnoyarsk Territory, the requirements for the quality of nomadic housing are regulated by regional acts that establish measures to assist the purchasing and arrangement of nomadic housing. Both measures embody the right of Indigenous Peoples to traditional housing, as established by the UN Declaration on the Rights of Indigenous Peoples.
5. Despite the possibilities for developing regional legislation, a number of provisions, due to the delimitation of powers of government bodies, require changes in federal legislation, primarily with regard to access to natural resources and the implementation of the declared priority use of wildlife and aquatic biological resources. Indigenous peoples of Russia declare the need at the federal level to adopt a law on ethnological examination (sociocultural impacts assessment), stipulation of the status of a nomadic reindeer herder, tightening environmental legislation in relation to gold mining companies, and expanding economic support measures for communities through obtaining the status of agricultural producers.

**The role and mechanisms of participation of representative bodies and organizations of Indigenous Peoples in the development of legislation, policies and programs**

1. Indigenous Small-Numbered Peoples can influence legislation development through various institutions of the Russian public authority system. In particular, meetings of the Precedential Council for Interethnic Relations by initiative of RAIPON resulted in President’s assignments to improve the procedure of citizens’ qualification as belonging to Indigenous Small-Numbered Peoples, performance of the Unified List of Indigenous Small-Numbered Peoples, and enforcement of the rights of Indigenous Small-Numbered Peoples in natural reserves, as well as to introduce employer-sponsored training for representatives of Indigenous Small-numbered Peoples, teacher training, and analysis of practices of native language instruction.
2. Leaders of Indigenous Small-numbered Peoples are represented in the Federal Assembly of the Russian Federation, the country’s supreme representative and legislative body; they serve in its upper chamber (three senators of the Council of Federation), as well as in its lower chamber (one member of the State Duma). This is a high representation number taking into account that the population of the 47 Indigenous Small-Numbered Peoples constitute 0.22 percent of the total Russian population[[3]](#footnote-3). Representatives of Indigenous Small-numbered Peoples are also elected to regional legislatures. In many Russian regions where Indigenous Small-Numbered Peoples traditionally reside, legislative/representative bodies have established dedicated subdivisions (committees, commissions, assemblies) on development of legislation on Indigenous Small-numbered Peoples, most of which are led by representatives of such peoples.
3. Some regions expand the range of institutions that hold the right of legislative initiative. For instance, the right of legislative initiative has been granted to a number of representative bodies of Indigenous Peoples: to the Yasavey Nenets People Association in the Nenets Autonomous Okrug, to the Assembly of Representatives of Indigenous Small-Numbered Peoples of the North (consists of members of the regional parliament, with a chair appointed as a parliament deputy chairman) in the Khanty-Mansi Autonomous Okrug (Yugra), and the Komi Voityr Inter-Regional Public Movement of the Komi People in the Republic of Komi. In the Republic of Karelia, the right of legislative initiative can be exercised by any non-governmental organization, including registered organizations of Indigenous Peoples.
4. The Kamchatka and Krasnoyarsk Territories, the Sakhalin region, and the Republics of Sakha (Yakutia) and Buryatia have introduced the independent positions of ombudsmen for the rights of Indigenous Small-numbered Peoples. These positions are filled by respected and qualified representatives of Indigenous Small-numbered Peoples after consultation with or on recommendation of their representative bodies. As ombudsmen have the status of national human rights institutions, they are well placed to detect systemic errors in right enforcement and propose legislative reforms, including through their annual reports to the regional parliaments.
5. Federal regulation provides for the formation of councils of representatives of Indigenous Small-Numbered Peoples under subnational governments or heads of regions. The federal government also motivates local authorities to create councils of representatives and expand the practice of interaction with them, however, the advisory nature of the norm leads to the fact that such bodies have not yet been created everywhere. In the Krasnoyarsk Territory, for example, a council have not been created in the Taimyr Dolgano-Nenets municipal district and in the Turukhansk district, but it functions in Evenkia. Moreover, Indigenous Peoples express concerns about the procedure for forming councils, financial and technical challenges in accessing the work of councils, ensuring geographical representation, and the balance of officials and representatives of Indigenous Small-Numbered Peoples.
6. Consultative and expert bodies on the federal and regional levels are involved in the discussion of draft laws. They include the Public Council of the Arctic Zone under the federal Ministry for the Development of the Russian Far East and Arctic, Expert and Consultative Council on Social and Economic Development of Indigenous Small-numbered Peoples of the North, Siberia and the Far East under the Federal Agency for Ethnic Affairs, Public Council under the Agency for the Development of Northern Territories and Support of Indigenous Small-numbered Peoples of the Krasnoyarsk Territory, etc. Indigenous Peoples are also involved in the work of federal and regional civic chambers and advisory bodies under the plenipotentiary representatives of the President of Russia in federal districts, whose functions include prior discussion of draft laws, policies and programs. Through these consultative mechanisms, Indigenous Peoples’ organizations have the opportunity not only to put forward or discuss initiatives, but also to withdraw them and call for a moratorium on their development if the draft law does not fully comply with their original intentions and the rights of Indigenous Peoples. For example, RAIPON and the Regional Association of Indigenous Small-Numbered Peoples of the Krasnoyarsk Territory gave a negative opinion on amendments to the federal law “On Territories of Traditional Use of Natural Resources by Indigenous Small-numbered Peoples of the North, Siberia and the Far East of the Russian Federation” during parliamentary hearings, which was followed by a negative opinion on the draft amendments from the Civic Chamber of the Russian Federation.
7. An example of efficient involvement of Indigenous Small-numbered Peoples in decision-making is the People’s Program of Indigenous Small-numbered Peoples of the North, approved by a resolution of the Governor of Yamal-Nenets Autonomous Okrug. Indigenous Small-numbered Peoples of the Kamchatka Territory approved their own sustainable development concept at a regional association congress in 2023.
8. The rights and opportunities of Indigenous Small-Numbered Peoples in Russia to discuss and initiate laws, policies and programs are expanding. There is an increase in the capacity of Indigenous Small-Numbered Peoples to effectively participate in the development of legislation at the regional and federal levels. At the same time, the capacity of Indigenous Peoples' organizations to pursue the legislative process at all its stages is not the same everywhere. Not in all cases, the presence of rights and opportunities for legislative initiative leads to the effective use of this right. Often, legislative activity is limited to the general formulation of concerns and legislative ideas. In a number of regions, the potential is limited by a low level of legal literacy, lack of a sufficient number of lawyers, and lack of time for prior discussion and reaching consensus within the community. Sometimes this leads to the dismantling of legislative mechanisms. For example, the right of legislative initiative of the Association of Indigenous Peoples of the North of the Kamchatka Territory was revoked by the regional parliament, including due to the lack of sustainable practice of using this right by Indigenous communities and the lack of consensus among them regarding the need for it.

**Development of state policies, strategies and programs to support Indigenous Peoples of the Russian Federation**

1. Apart from legislation, strategic planning documents incorporating provisions related to Indigenous Small-numbered Peoples, such as the State Ethnic Policy Strategy until 2025, are important from the political and legal perspective. Broad consultations with Indigenous Small-numbered Peoples took place when the Program of State Support for Traditional Economic Activities of Indigenous Small-numbered Peoples in the Arctic Zone was being drafted. The Program approved by a Russian Government resolution in 2021 envisages improvement of the regulatory environment on traditional economic activities of Indigenous Small-numbered Peoples.
2. Another innovation in Arctic-related regulatory framework is the Standard of Responsibility of Residents of the Arctic Zone of the Russian Federation in their Relations with Indigenous Small-Numbered Peoples of the Russian Federation Residing and (or) Pursuing Traditional Economic Activities in the Arctic Zone of the Russian Federation Approved by Order of the Ministry for Development of Russian Far East and Arctic in 2020.
3. As part of implementation of the Strategy of Development of the Arctic Zone of the Russian Federation and Providing for National Security for the Period until 2035, the Ministry of Health has approved the action plan for development of telemedicine and remote forms of medical assistance that covers, inter alia, migration routes of Indigenous Small-numbered Peoples in the Arctic zone.
4. Approval of organizations of Indigenous Small-numbered Peoples is requested for activities contributing to economic and social development of Indigenous Small-numbered Peoples of the North, Siberia and the Far East in the framework of the State Program of Implementation of the State Ethnic Policy.
5. Most of the regions where Indigenous Small-numbered Peoples reside have approved support programs for their social and economic development, regional sustainable development concepts, or action plans aimed at implementation of the Sustainable Development Concept for Indigenous Small-numbered Peoples of the North, Siberia and the Far East, approved by the Russian Government in 2009. In particular, the Krasnoyarsk Territory has approved the State Program of Development and Preservation of Traditional Way of Life and Economic Activities of Indigenous Small-numbered Peoples, the Strategy of Social and Economic Development of Northern and Arctic Territories and Support of Indigenous Small-numbered Peoples in the Krasnoyarsk Territory for the Period until 2035, and the Sustainable Development Concept for Indigenous Small-numbered Peoples in the Krasnoyarsk Territory for 2017–2025.

**Decisions of the Supreme and Constitutional Courts, other courts of the judicial system of the Russian Federation and their impact on the improvement of legislation**

1. Indigenous Small-numbered Peoples use opportunities of the judicial system not only to restore their violated rights, but also to fix legislation gaps. Judicial practice offers settlement procedures for conflicts with the state and takes into account customs and traditions of Indigenous Peoples in the spirit of Article 40 of the Declaration.
2. In 2019, the RF Constitutional Court reaffirmed[[4]](#footnote-4) that communities of Indigenous Small-numbered Peoples were entitled to distribute resources independently within themselves using their own procedures, which provides an opportunity to transfer the right to take up hunting quotas to the community members who are certified hunters.
3. In 2021, the Constitutional Court decided[[5]](#footnote-5) that the federal legislature should specify the legal basis for enforcement of the right to traditional hunting by representatives of Indigenous Small-numbered Peoples of the North, Siberia and the Far East that do not reside permanently in the areas of their traditional residence and traditional economic activities and engage in traditional economic activities in addition to their main economic activity. In doing so, the federal legislature was instructed to take into account the opinion of representatives of such peoples residing in the areas of traditional residence and traditional economic activity. The Constitutional Court pointed out that the right to traditional hunting shall not be considered solely as a livelihood, but rather it should also be understood as a guarantee of identity and preservation of traditional way of life.
4. The Constitutional Court rulings do not contain direct references to the UN Declaration on the Rights of Indigenous Peoples, but their essence corresponds to provisions of international standards. In particular, the Constitutional Court reaffirmed the right of Indigenous Peoples to participate in decision-making (Article 18), the right to engage in their traditional and other economic activities (Article 20), and some other rights stipulated in the Declaration.
5. Indigenous Peoples note that courts of general jurisdiction, unlike the Constitutional Court, despite the possibility established by law to take into account the culture, customs and traditions of Indigenous Peoples when making decisions, often do not have sufficient knowledge in this area. This is reflected in the statistics and nature of court decisions in cases involving Indigenous Peoples. For example, the Supreme Court did not find sufficient grounds for early retirement for the Chulyms, although such a rule applies to other Indigenous Small-Numbered Peoples due to their special vulnerability. At the same time, there are examples of positive court decisions. In particular, the court supported the claim of Indigenous Small-Numbered Peoples to the authorities to create, at the proposal of Indigenous Peoples, territories of traditional use of natural resources in Evenkia, in order to establish a special legal regime for the protection of the traditional habitat and traditional way of life as provided by the federal legislation.

**Impact of the international processes on legislation reform, policies and programs**

1. Russia is a party to most international human rights treaties and considers the UN Declaration on the Rights of Indigenous Peoples as an authoritative interpretive source for understanding the rights of Indigenous Peoples and legislation reform. In this regard, it is important to ensure access of legitimate representative bodies and organizations of Indigenous Peoples to international platforms for developing standards on the rights of Indigenous Peoples, in particular in the field of combating climate change, preserving biological and linguistic diversity, achieving the Sustainable Development Goals, protecting traditional knowledge and respect for the rights of Indigenous Peoples in industrial development. Indigenous Peoples note visa and logistics barriers, as well as other unilateral coercive measures imposed by states hosting UN headquarters. These measures impede the full and effective participation of Indigenous Peoples in international cooperation.
2. Indigenous Peoples of Russia note the importance of developing national laws, policies and practices based on the highest international standards and taking into account national and local specificities. Examples of good practice include the development of subnational action plans and programs in most regions inhabited by Indigenous Peoples within the framework of the International Decade of Indigenous Languages, as well as organization in Russia of the International Forum of Public-Private Partnerships for the Sustainable Development of Indigenous Peoples.

**Conclusions and recommendations**

1. An important principle in the process of achieving the ends of the UN Declaration on the Rights of Indigenous Peoples in accordance with Article 38 is to use the synergy effects of knowledge and joint efforts of various institutions such as representative bodies and organizations of Indigenous Peoples, public authorities, businesses, civil society institutions, and the academic community. It is relevant to identify tendencies and analyze efficiency of lawmaking processes and court decisions in order to make sure all legislative transformations help improve the situation of Indigenous Small-numbered Peoples.
2. For the purposes of an efficient lawmaking dialogue between the State and Indigenous Peoples, it is important to establish efficient mechanisms for collecting disaggregated data on Indigenous Peoples and to improve the institutions of their participation in legislation development by expanding their opportunities of exercising legislative initiative and being personally involved in legislative bodies.
3. On the national level, States are advised to strengthen the mechanisms of consulting with Indigenous Peoples as part of the international negotiations and standard setting process on climate change, sustainable development agenda, biological and linguistic diversity preservation. National consultations with Indigenous Peoples should be held while drafting periodic reports to the Treaty Bodies and the Universal Periodic Review.
4. States that host UN bodies responsible for the promotion and protection of the rights of Indigenous Peoples should remove existing restrictions and refrain from introducing new barriers to the full and effective participation of Indigenous Peoples in the work of these bodies.
5. States should strengthen opportunities and mechanisms for Indigenous Peoples to participate in the discussion and promotion of their legislative priorities, as well as participation in legislative and executive decision-making at all levels. At the same time, the spirit of the Declaration is consistent with both the encouragement of legislative activity and the possibility of withdrawing draft laws, not agreeing on them, or asking for a moratorium on their consideration.
6. The development of legal literacy and organizational capacity of Indigenous Peoples should be encouraged, including through capacity building programs, training and participation in national and international events.
7. In order to effectively take into account the norms of customary law when making judicial decisions, Indigenous Peoples require assistance in summarizing their legal customs with a view to further bringing them to the attention of the judiciary.
1. RF Constitutional Court Resolution No. 21-P dd. 28.05.2019 “On Verification of Constitutionality of Article 19 of Federal Law ‘On Hunting and Preservation of Hunting Resources and Amendments to Selected Legislative Acts of the Russian Federation’”; RF Constitutional Court Resolution No. 32-P dd. 05.07.2021 “On Verification of Constitutionality of Part 1 of Article 3 of Federal Law ‘On Safeguarding the Rights of Indigenous Small-numbered Peoples of the Russian Federation’ and Part 1 of Article 19 of Federal Law ‘On Hunting and Preservation of Hunting Resources and Amendments to Selected Legislative Acts of the Russian Federation.’” [↑](#footnote-ref-1)
2. Federal Law No. 82-FZ dd. 30.04.1999 “On Guarantees of the Rights of Indigenous Small-numbered Peoples in the Russian Federation,” Federal Law No. 104-FZ dd. 20.07.2000 “On the General Principles of Organization of Communities of Indigenous Small-numbered Peoples of the North, Siberia and the Far East of the Russian Federation,” Federal Law No. 49-FZ dd. 07.052001 “On Territories of Traditional Use of Natural Resources by Indigenous Small-numbered Peoples of the North, Siberia and the Far East of the Russian Federation.” [↑](#footnote-ref-2)
3. According to the 2020 All-Russian population Census. – [Website]. – Available at: <https://rosstat.gov.ru/vpn/2020/Tom5_Nacionalnyj_sostav_i_vladenie_yazykami> [↑](#footnote-ref-3)
4. RF Constitutional Court Resolution No. 21-P dd. 28.05.2019 [↑](#footnote-ref-4)
5. RF Constitutional Court Resolution No. 32-P dd. 05.07.2021 [↑](#footnote-ref-5)